

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Chidi N. Anunka,

Civil No. 12-2071 (DWF/JJG)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

City of Burnsville,

Defendant.

This matter is before the Court upon Plaintiff Chidi N. Anunka's ("Plaintiff") objections (Doc. No. 21) to Magistrate Judge Jeanne J. Graham's Report and Recommendation (Doc. No. 19) insofar as it recommends that Plaintiff's claim for wrongful seizure and retention under § 1983 is barred by the applicable statute of limitations. Accordingly, the Magistrate Judge recommended that (1) Defendant City of Burnsville's Motion to Dismiss be granted; (2) this case be dismissed with prejudice; and (3) judgment be entered accordingly. Defendant City of Burnsville filed a reply to Plaintiff's objections on December 13, 2012. (Doc. No. 22.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of the parties, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Having carefully reviewed the record, the Court concludes that Plaintiff's objections offer no basis for departure from the Report and Recommendation. In particular, Plaintiff appears to contend that Magistrate Judge Graham erroneously determined that the limitation period has expired, and Plaintiff has therefore failed to state a claim upon which relief can be granted. (*See* Doc. No. 21 at 2.) Plaintiff argues that his cause of action did not accrue until 2012. (*Id.*) The Court concludes, however, that Plaintiff has failed to allege facts sufficient to establish that the limitation period (for the alleged wrongful seizure that occurred in 1987 and the unanswered request for the property's return in 2002) should be tolled. The Court further concludes, as did Magistrate Judge Graham, that Plaintiff's discovery in 2012 that the seizure records at issue had been destroyed has "no bearing on whether the seizure or the retention was unlawful." (Doc. No. 19 at 3-4.) Consequently, Plaintiff has failed to overcome the Court's determination that his claim is time-barred under any applicable statutory limitations period. *See* Minn. Stat. §§ 541.05, 541.07. Plaintiff's Complaint is thus rightfully dismissed.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Chidi N. Anunka's objections (Doc. No. [21]) to Magistrate Judge Jeanne J. Graham's November 6, 2012 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Jeanne J. Graham's November 6, 2012 Report and Recommendation (Doc. No. [19]) is **ADOPTED**.

3. Defendant City of Burnsville's Motion to Dismiss (Doc. No. [5]) is **GRANTED**.

4. Plaintiff's Complaint (Doc. No. [1]) is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 15, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge